

THOMSON REUTERS NEWS & INSIGHT



Featuring content from WESTLAW

LEGAL

HOME | NEWS | INSIGHT | LEGAL MATERIALS



1/14/2013

By Erin Geiger Smith

COMMENTS (0)

Texas court back on top in new patent lawsuit filings

Jan 14, (Reuters) - The U.S. District Court for the Eastern District of Texas has reclaimed its spot as the top venue for U.S. patent lawsuits, with Delaware's federal court coming in second, new data shows.

Overall, both jurisdictions saw more than double the number of patent lawsuits filed in 2012, compared with the prior year, according to data compiled by law firm Perkins Coie, which tracks annual patent filings.

The number of new patent lawsuits has surged following the enactment of the America Invents Act in September 2011.

While the law was designed in part to curb lawsuits by entities that assemble caches of patents yet do not actually make anything, it also encouraged other types of cases. That's because the statute made it tougher for plaintiffs to sue more than one defendant in a single complaint, meaning they must now bring multiple cases.

Last year, more than 1,260 patent cases -- about 23 percent of the total filings throughout the country -- were filed in the Eastern District of Texas, up from 418 in 2011, according to James Pistorino, a patent litigation partner at Perkins Coie.

The Texas district has long been seen as a "rocket docket" where juries are considered to favor plaintiffs. Also, plaintiffs like to file in that district because they can often better predict which judges will get a case because the court only assigns a small number of its judges to patent lawsuits. Judges in the district also tend not to grant summary judgment early in a lawsuit.

More recently, many patent plaintiffs have also gone to Delaware for the same reasons. Though judges are assigned randomly in Delaware, the court only has four regular district judges compared with the dozens of judges in federal court districts in California, for example.

Almost 1,000 cases were filed in the U.S. District Court in Delaware last year, up from 484 in 2011, according to the data.

The U.S. District Court for the Central District of California came in third in 2012, with 514 patent filings, and the Northern District of California came in fourth, with 258, according to the data. The Northern District of Illinois, with 237, was fifth.

The total number of patent cases filed in all federal courts in 2012 was just over 5,500, more than 1-1/2 times the 3,600 filed in 2011, Pistorino's research showed.

Perkins Coie's tally excludes false marking cases, which are related to the alleged use of expired patent numbers.

GO-TO PATENT COURT

The Eastern District of Texas, which includes the federal courts in Beaumont, Marshall and Tyler, landed back at the top of the list after Delaware registered the most new patent cases in 2011.

In the Texas district, Judge T. John Ward, credited with making the district a go-to patent court, retired in October 2011 after 12 years on the bench.

The timing of Ward's departure could have encouraged some plaintiffs' attorneys to file patent cases in Delaware late that year rather than in Texas because the open judicial seat meant cases might take longer to work through the Texas docket, said University of Houston patent law professor Paul Janicke.

Judge Rodney Gilstrap was confirmed as Ward's replacement on Dec. 11, 2011.

The 2012 filings data shows the effects that the America Invents Act has had on patent litigation. Despite the increase in the number of cases filed, the workload for judges is likely to remain almost unchanged as the same issues will be present in multiple lawsuits, Janicke said.

Further, if a plaintiff concurrently files multiple lawsuits for infringement of the same patents, courts have consolidated cases from a discovery perspective, Pistorino said.

Though more cases were filed in 2012, the total number of defendants named in patent complaints decreased more than 15 percent in 2012, to just over 12,000, from 14,000 in 2011, according to Pistorino's calculations.

MORE LEGAL NEWS

Immigrants decry 'scarlet letter' driver's licenses in N.C.

Manhattan U.S. Attorney's Office names new appellate chief

U.S. appeals court pulls judge from case of accused Boston mobster

Analysis: For U.S. high court, California justices wrote prologue on gay marriage

SEC stumbles in Deloitte's Chinese audit case

Accord between JPMorgan, MF Global parent gets court approval

American Airlines requests more time to file reorganization plan

U.S. regulator sides with big banks on avoiding break-up votes

NYC's appeal of soda ban ruling to be heard in June

Ex-PIMCO exec sues firm, says was fired for reporting misdeeds

Texas court back on top in new patent lawsuit filings
That drop could be attributed to plaintiffs naming fewer marginal defendants following the enactment of the new patent law, Pistorino said.

Follow us on Twitter @ReutersLegal | Like us on Facebook

 [Register or log in to comment.](#)

© 2012 THOMSON REUTERS

[CONTACT US](#) [PRIVACY POLICY](#) [TERMS OF USE](#) [COPYRIGHT](#) [SITE MAP](#)